

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - - - -

Jane Doe,	:
Plaintiff,	:
vs.	: Case No. 2:20-cv-00459
	Judge Graham
Andrew K. Mitchell,	: Magistrate Judge
et al.,	Litkovitz
	:
Defendants.	:

- - - - -

DEPOSITION OF ANDREW K. MITCHELL

- - - - -

Taken at United States District Court  
Southern District of Ohio  
85 Marconi Boulevard  
Columbus, Ohio 43215  
January 27, 2022, 9:21 a.m.

- - - - -

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

David A. Goldstein Co., LPA  
511 South High Street, 2nd Floor  
Columbus, Ohio 43215  
By David A. Goldstein, Esq.  
Sara M. Valentine, Esq.

ON BEHALF OF DEFENDANT ANDREW K. MITCHELL:

Walker, Novack Legal Group, LLC  
5013 Pine Creek Drive  
Westerville, Ohio 43081  
By Scott C. Walker, Esq.

AND

Mark C. Collins Co., LPA  
150 East Mound Street, Suite 308  
Columbus, Ohio 43215  
By Mark C. Collins, Esq.

ON BEHALF OF DEFENDANT CITY OF COLUMBUS:

Columbus City Attorney's Office  
77 North Front Street, 4th Floor  
Columbus, Ohio 43215  
By Joseph M. Gibson, Esq.  
Janet R. Arbogast, Esq.

ALSO PRESENT:

Damon Willaman  
Richard Hault  
Michael Schmidt

Thursday Morning Session

January 27, 2022, 9:21 a.m.

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S T I P U L A T I O N S

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It is stipulated by counsel in attendance that the deposition of Andrew K. Mitchell, a Defendant herein, called by the Plaintiff for cross-examination, may be taken at this time by the notary by agreement of counsel and without notice or other legal formality; that said deposition may be reduced to writing in stenotypy by the notary, whose notes may thereafter be transcribed out of the presence of the witness; that proof of the official character and qualification of the notary is waived.

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I N D E X

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(Original exhibit returned to Mr. Goldstein.)

— — — — —

ANDREW K. MITCHELL

being first duly sworn, testifies and says as follows:

CROSS-EXAMINATION

BY MR. GOLDSTEIN:

Q. Good morning. Can you state your name  
for the court reporter, please.

A. Andrew Kirk, K-I-R-K, Mitchell.

Q. Mr. Mitchell, my name is David Goldstein. Along with Sara Valentine, we represent Jane Doe in regard to a civil lawsuit that we have filed against you and the City of Columbus. I am here this morning to take your discovery deposition.

Have you ever had your deposition taken before?

A. No, I have not.

Q. Okay. Let me go over a couple ground rules. I know you've probably testified in court before, but depositions are a little bit different than when you testify in court.

First, I'm going to be asking you several questions this morning. If at any time I

1 ask you a question that you do not understand,  
2 please let me know and I'll ask it in a different  
3 manner. If you answer my question with a yes, no,  
4 or explanation, I'm going to assume, in fact, that  
5 you did understand my question.

6 One of the things -- obviously we're  
7 here in the courtroom. We're wearing masks.  
8 Sometimes it's difficult to hear when one is  
9 speaking through the mask. So if you can't hear  
10 me or you do not understand me, please let me  
11 know, okay?

12 A. Yes.

13 Q. And the other rule is, since we're  
14 creating a record here today, we have to give  
15 verbal responses. If you shake your head or say  
16 uh-huh or huh-uh, I might say is that a yes or a  
17 no. I'm not trying to be rude. I'm just trying  
18 to make sure that we have a clear record, okay?

19 A. Yes.

20 MR. WALKER: And, David, just as a  
21 housekeeping matter, my name is Scott Walker, and  
22 I represent Mr. Mitchell in the civil matter here.  
23 As David and I have discussed previously, there  
24 are criminal charges that are pending against

1 Mr. Mitchell both in the federal court and in the  
2 state court. Some of those issues are likely  
3 implicated by the allegations that have been  
4 raised in the civil matter. And because of that,  
5 I have with me Mr. Mark Collins, who is  
6 Mr. Mitchell's criminal defense attorney.

7 MR. GOLDSTEIN: Thanks, Scott. One of  
8 the things also on the record, and we'll get to  
9 this, it's my understandings that Mr. Mitchell,  
10 more likely than not, is going to invoke his Fifth  
11 Amendment rights to a majority of my questions. I  
12 am not the kind of attorney that will go through  
13 each of my questions because we will be here all  
14 afternoon whereby Mr. Mitchell will invoke his  
15 Fifth Amendment right. So when I get to certain  
16 topics and Mr. Mitchell does invoke his Fifth  
17 Amendment right, I will probably ask counsel,  
18 saying, if I focus on this topic, is this where  
19 he's going to invoke his Fifth Amendment right.  
20 We can have that agreement?

21 MR. COLLINS: Absolutely.

22 MR. WALKER: And Mr. Collins will be  
23 taking the lead on those matters.

24 MR. GOLDSTEIN: And that's completely

1 fine. We understand that. Thank you.

2 BY MR. GOLDSTEIN:

3 Q. Mr. Mitchell, also, when I'm asking a  
4 question, you might anticipate what I'm going to  
5 ask and jump in and start answering the question  
6 before I have completed it. I would just ask that  
7 you wait until I finish my question because,  
8 again, it's difficult for the court reporter to  
9 take down the information when we're talking over  
10 one another, okay?

11 A. Okay.

12 Q. Also, one of the things, if you can,  
13 try and keep your voice up. It's unusual  
14 circumstances where I'm over here when usually we  
15 would be closer together, and plus wearing masks.  
16 So if you can just try and keep your voice up so I  
17 can hear the responses, okay?

18 A. Okay.

19 Q. Thank you. And finally, if at any time  
20 you need to take a break or if you have to confer  
21 with your counsel, just let me know. Obviously  
22 this is not an endurance contest. I'm not sure  
23 how long we're going to be here this morning, but  
24 just let me know. However, I would just ask that



1 if a question is pending, that you answer that  
2 question first before we take a break, okay?

3 A. Okay.

4 Q. Is there any reason today, albeit  
5 physically, mentally, or because you're on any  
6 type of medication that you cannot participate in  
7 today's deposition?

8 A. No, there's not.

9 Q. Is there any reason, albeit physically,  
10 mentally, or because you're on any type of  
11 medication that you cannot understand my  
12 questions?

13 A. No.

14 Q. Did you review any documents to prepare  
15 for your deposition today? And let me caution  
16 you. I do not want to know what you talked about  
17 with Scott or Mr. Collins. I'm just asking if you  
18 reviewed any documents to prepare for your  
19 deposition today.

20 A. No, I did not.

21 Q. What is your date of birth?

22 A. December 1st, 1963.

23 Q. And what is the last four of your  
24 Social Security number?

1 A. 1619.

2 Q. Have you ever had to use a different  
3 date of birth for any reason?

4 A. Yes, when I -- yes.

5 Q. Was that when you were working with the  
6 Columbus Police Department?

7 A. Yes.

8 Q. And you were acting in an undercover  
9 capacity?

10 A. Yes.

11 Q. Okay. Did you ever use a different  
12 date of birth outside of your employment as an  
13 undercover officer with CPD?

14 A. No.

15 Q. Have you ever had to use a different  
16 Social Security number for any reason?

17 A. Yes.

18 Q. And, again, was that when you were  
19 working in your employment as an undercover  
20 officer with CPD?

21 A. Yes.

22 Q. Have you ever used a different Social  
23 Security number outside of that scope of  
24 employment?

1 A. No, sir.

2 Q. I know that currently you are  
3 incarcerated. But before you were incarcerated,  
4 what was your home address?

5 A. 6249 Howard Road. That's in Sunbury,  
6 Ohio, 43074.

7 Q. And how long did you reside at that  
8 address?

9 A. Since May of 2009.

10 Q. And I know there were some written  
11 questions. They're called interrogatories.  
12 Basically what they mean is written questions that  
13 you responded to. And we received a verification  
14 page from you today.

15 It looks like you are currently married  
16 to Tanya Mitchell; is that correct?

17 A. Yes, sir.

18 Q. And you've been married to her since  
19 September of 1999?

20 A. Correct.

21 Q. I assume that she was living with you  
22 at the Howard Road address until you were  
23 incarcerated; is that correct?

24 A. Yes.

1 Q. Did anyone else live with you at the  
2 Howard Road address in 2018 or 2019?

3 A. Yes.

4 Q. Who else?

5 A. My mother-in-law, Jean, J-E-A-N,  
6 McLymont, M-C capital L-Y-M, as in Mary, O-N-T.

7 Q. Anyone else during that timeframe?

8 A. My daughter, Kamryn Morgan.  
9 K-A-M-R-Y-N Morgan. We have guardianship of her.  
10 We were going through the process of adoption, but  
11 she's just a guardian right now.

12 Q. How old is Kamryn?

13 A. She's six now.

14 Q. Did you own the Howard Road property?

15 A. Yes.

16 Q. Do you currently own any other  
17 property?

18 A. Yes.

19 Q. About how many other properties do you  
20 currently own?

21 A. I own two apartment complexes and three  
22 other homes.

23 Q. What are the apartment complexes' names  
24 and/or addresses?

1 A. No name. It's 1975 through 1999  
2 Denune. That's D, as in David, E-N-U-N-E, Avenue  
3 in Columbus, Ohio.

4 Q. When you say the two apartment  
5 complexes, is that --

6 A. That's a 16-unit there.

7 Q. And what about the other apartment  
8 complex, what's the address for that?

9 A. 1310 through 1397 Miller Avenue, and  
10 that's a 17-unit.

11 Q. And that's in Columbus as well?

12 A. Yes.

13 Q. And then you mentioned some other  
14 properties you own. Can you give me the address  
15 of those properties?

16 A. 500 Capitol View Avenue, 1854 Joan  
17 Place, and 2097 Paul Drive. P-A-U-L Drive.  
18 That's it.

19 Q. No other properties that you own other  
20 than what you've just described to me, correct?

21 A. Correct.

22 Q. Are those all in the Columbus area?

23 A. Yes.

24 Q. And are all of those properties in your

1 name, or are they in some type of business name,  
2 LLC, corporation?

3 A. They're in my name.

4 Q. Do you have any ownership in any  
5 businesses other than those apartment complexes  
6 and the property that you described?

7 A. The only other thing I have is my real  
8 estate license, which is on the shelf right now.

9 Q. And just so I'm clear, you have no  
10 other ownership interest in any businesses, any  
11 corporations, LLCs, or anything of that nature  
12 that would give you a source of income or a stream  
13 of income?

14 A. No, sir.

15 Q. And all the properties that you just  
16 described, are they still currently in your name?

17 A. Yes.

18 Q. Do you have any other source of income  
19 other than what maybe those properties bring in to  
20 you currently?

21 A. Just my pension with the City.

22 Q. Back in 2017, did you have any vehicles  
23 titled in your name?

24 A. Yes.

1 Q. Do you recall what those vehicles were?

2 A. I had a 2013 Cadillac XTS. A 2007 GMC  
3 pickup truck, 2500. I had a 2015 Harley Davidson  
4 motorcycle. That's it, I believe.

5 Q. Any additional vehicles that you had  
6 titled in your name in 2018?

7 A. Not that I recall.

8 Q. Okay. What color was the 2013 Cadillac  
9 XTS?

10 A. It's a dark charcoal gray.

11 Q. And you still own that vehicle?

12 A. No, not really.

13 Q. Okay. When you say, no, not really,  
14 explain that to me.

15 A. The Feds have it right now.

16 Q. Okay. Did the Feds seize any other  
17 vehicles that you owned that you just described to  
18 me other than the 2013 Cadillac?

19 A. No.

20 Q. I take it -- have you filed both state  
21 and federal tax returns in 2017?

22 A. Yes.

23 Q. Okay. Same, did you file state and  
24 federal tax returns in 2018?

1 A. Yes.

2 Q. It's my understanding that you were  
3 employed by the Columbus Police Department, but  
4 you eventually resigned; is that correct?

5 A. I retired.

6 Q. How long were you employed by CPD?

7 A. 31 years and three months.

8 Q. Do you recall what year you were  
9 assigned to the vice unit?

10 A. March of 2017.

11 Q. Prior to joining the vice unit in March  
12 of 2017, what was your assignment?

13 A. I was with the homicide unit.

14 Q. What years were you with homicide?

15 A. 2012 through 2017.

16 Q. And before homicide, what was your  
17 assignment?

18 A. I was in the check squad unit.

19 Q. What years?

20 A. 2009 through 2012.

21 Q. And before check squad?

22 A. Exploited children's unit, 2007 through  
23 2009.

24 Q. And before that?



1           A.           I was in the missing persons unit in  
2           2006.

3           Q.           When you joined vice in March of 2017,  
4           who was your supervisor, or who would you report  
5           to, your sergeant, or commander; do you recall?

6           A.           Mike Evans. He's my sergeant.

7           Q.           And when you joined vice in March of  
8           2017, what were your duties and responsibilities  
9           in vice at that time?

10                  MR. COLLINS: Mr. Goldstein, I  
11           appreciate the question, but at this point in  
12           time, I'm going to interject and advise my client  
13           that a lot of the aspects of the federal criminal  
14           case, as well as the state criminal case, center  
15           around those duties, so I would advise my client  
16           to take the Fifth Amendment at this point.

17                  Go ahead. You can answer.

18                  Do you want to answer the question?

19           A.           Upon advice of counsel, at this time I  
20           am invoking my Fifth Amendment rights against  
21           self-incrimination and will not be answering that  
22           question.

23                  MR. GOLDSTEIN: Just so I'm clear, and  
24           can have something on the record, any questions

1       that I ask now about his duties with vice going  
2       into standard operating procedure, his role in  
3       vice, anything of that nature, it's my  
4       understanding that Mr. Mitchell would be invoking  
5       his Fifth Amendment right?

6               MR. COLLINS: That's absolutely  
7       correct. And I'm not trying to stop you from  
8       obtaining information, but much of both of the  
9       cases is about policies and procedures that were  
10      in place or not in place in both the criminal  
11      cases, both in the state case, as well as the  
12      federal case.

13             And, yes, we would be invoking the  
14      Fifth on each of those topics.

15             MR. GOLDSTEIN: Can we have an  
16      agreement then, Scott, Joe, and Janet, that  
17      obviously I'm not going to go through and ask all  
18      these questions that I have regarding vice if we  
19      can understand that any questions I was going to  
20      ask regarding his duties and responsibilities in  
21      vice, his daily activities in vice, policies and  
22      procedures in vice specifically to standard  
23      operating procedure that was issued, that  
24      Mr. Mitchell would be invoking his Fifth Amendment

1 right based upon what Mr. Collins has stated so  
2 that I can avoid asking those questions today?

3 MR. WALKER: Yes.

4 MR. GOLDSTEIN: Okay. Thank you.

5 I think I'm going to ask a question  
6 that Mr. Collins is going to probably ask you to  
7 invoke your Fifth Amendment right, but I want to  
8 move on now to talk about the superseding  
9 indictment that was filed against you. And I  
10 wanted to go into some of the allegations made in  
11 that.

12 I assume that if I were to ask those  
13 questions, Mr. Collins, that you would be invoking  
14 his Fifth Amendment right as well?

15 MR. COLLINS: Absolutely. Anything  
16 regarding that, we would be -- he will be putting  
17 forth his right against self-incrimination based  
18 on the Fifth Amendment.

19 MR. GOLDSTEIN: Let me just ask this of  
20 Mr. Mitchell so he can read the statement into the  
21 record.

22 Q. Mr. Mitchell, I wanted to talk about  
23 the superseding indictment and ask specifically  
24 about some of the victims identified. Victim

1 No. 1, where there's allegations made that you had  
2 sexual conduct and/or contact with her.

3 Do you know who victim No. 1 is?

4 A. Upon advice of my counsel, at this time  
5 I'm invoking my Fifth Amendment right against  
6 self-incrimination and will not be answering that  
7 question.

8 MR. GOLDSTEIN: Again, can we have an  
9 agreement that if I go into any of the facts or  
10 questions regarding the superseding indictment,  
11 which also do include, I'll represent, facts and  
12 allegations that have been made on behalf of my  
13 client against Mr. Mitchell, that Mr. Mitchell  
14 would be invoking his Fifth Amendment right.

15 Is that correct, Mr. Collins?

16 MR. COLLINS: Absolutely.

17 MR. GOLDSTEIN: And can we have an  
18 agreement then that obviously any questions I ask  
19 regarding the superseding indictment and the  
20 allegations that have been made against  
21 Mr. Mitchell involving my client, and any other  
22 victim or facts set forth in an indictment,  
23 Mr. Mitchell would be invoking his Fifth Amendment  
24 right; therefore, I do not have to go through that

1       topic, each question, since he would be invoking  
2       that?

3               MR. COLLINS:   Agreed.

4               MR. WALKER:   Sure.

5               MR. GOLDSTEIN:  Thank you.

6       Q.           Mr. Mitchell, again, I assume that your  
7       counsel is going to invoke the Fifth, but I need  
8       to ask the question.

9               Have you ever had sexual conduct or  
10      contact, and if you don't know what those words  
11      mean, let me know, with someone who was a  
12      prostitute?

13              MR. COLLINS:  Once again, Mr. Mitchell,  
14      go ahead.

15      A.           Upon advice of counsel, at this time  
16      I'm invoking my Fifth Amendment right against  
17      self-incrimination and will not be answering that  
18      question.

19      Q.           Mr. Mitchell, have you ever been  
20      treated by any healthcare provider, psychologist,  
21      psychiatrist, for any addictions?

22              MR. COLLINS:  You can answer that.

23      A.           No.

24      Q.           Have you ever been diagnosed with any

1 type of sexual addiction?

2 MR. COLLINS: I'll ask him to invoke  
3 the Fifth on that question.

4 A. Upon advice of my counsel, at this time  
5 I'm invoking my Fifth Amendment right against  
6 self-incrimination and will not be answering that  
7 question.

8 MR. GOLDSTEIN: And just to be clear,  
9 Scott, and Mr. Collins, if I ask any questions  
10 regarding my client and interactions that my  
11 client is alleging that she had with Mr. Mitchell,  
12 you would be invoking the Fifth Amendment right;  
13 is that correct?

14 MR. COLLINS: Yes, sir.

15 MR. WALKER: That's correct.

16 MR. GOLDSTEIN: Okay. Can we have an  
17 agreement, again, that I'm not going to be asking  
18 specific questions or general questions regarding  
19 the interaction between my client and Mr. Mitchell  
20 on the dates that have been alleged in the  
21 indictment, and/or now that we have advised  
22 counsel about certain dates because Mr. Mitchell  
23 would be invoking his Fifth Amendment right; is  
24 that agreeable?

1 MR. WALKER: That's correct.

2 MR. GOLDSTEIN: Thank you.

3 Q. Mr. Mitchell, did you ever reside at  
4 1993 Denune Avenue, Apartment E?

5 MR. COLLINS: Once again, I'm going to  
6 ask him to invoke his Fifth Amendment rights.

7 A. Upon advice of my counsel, at this time  
8 I'm invoking my Fifth Amendment right against  
9 self-incrimination and will not be answering that  
10 question.

11 Q. Mr. Mitchell, in those answers to  
12 written questions, you indicated that you had a  
13 cell phone number in 2018 of 614-679-0788; is that  
14 correct?

15 A. Yes.

16 Q. Do you know who the provider was at  
17 that time?

18 A. It's been so long. I'm trying to  
19 think. I can't remember the name of the company.

20 Q. Was that personal cell phone in your  
21 name?

22 A. Yes.

23 Q. Did you own any other cell phones back  
24 in 2018 that you used, either a burner phone, and

1 I assume you know what I mean by a burner phone,  
2 or any other cellular device that you used in  
3 2018?

4 MR. COLLINS: I'm going to advise him  
5 to take the Fifth.

6 A. Upon advice of counsel, at this time I  
7 am invoking my Fifth Amendment right against  
8 self-incrimination and will not be answering that  
9 question.

10 Q. Back in 2017, if you provided -- was  
11 your cell number also, that you gave me,  
12 614-679-0788?

13 A. Yes.

14 Q. And that cell phone, was that in your  
15 name?

16 A. Yes.

17 Q. It's my understanding that when you  
18 were employed by CPD, if you were working  
19 undercover, then you would also be provided a City  
20 cell phone; is that correct?

21 A. Yes. I remember the name of the  
22 account now. It was Sprint.

23 Q. Thank you, sir.

24 MR. GOLDSTEIN: I'm going to show



1 counsel -- I don't want to show it to him yet,  
2 Mark, because I think you're going to invoke the  
3 Fifth. So I just want to put this on the record.  
4 I know it's weird.

5 - - - - -

6 Thereupon, Deposition Exhibit A is marked  
7 for purposes of identification.

8 - - - - -

9 MR. GOLDSTEIN: I'm showing you what  
10 I've marked as Exhibit A. I will represent to you  
11 that that is the Standard Operating Procedure of  
12 the Columbus Police Department back in December of  
13 2016.

14 I know I did mention this earlier, but  
15 am I correct that if I ask Mr. Mitchell any  
16 questions about Exhibit A, that you would be  
17 invoking his Fifth Amendment right?

18 MR. COLLINS: Yes. And I'm not saying  
19 that that's not the correct things there, but --

20 MR. GOLDSTEIN: Yeah, I understand. We  
21 turned it over, and we can authenticate it later.  
22 But I'm just -- I planned on asking him some  
23 questions. I don't want to go through them if  
24 it's my understanding that anything I ask

1       regarding the SOP, that he would be invoking his  
2       Fifth Amendment.

3               MR. COLLINS:   And the reason why is  
4       because in the state case there's some potential  
5       variations and things of that nature of what was  
6       going on in the unit at that time that may come  
7       into play.

8               MR. GIBSON:   I may ask some questions  
9       related to the SOP, not whether he performed the  
10      duties, that kind of thing, so we'll cross that  
11      bridge when we come to it.

12              MR. COLLINS:   Sure.

13      Q.           And I'm going to ask this question.   If  
14      Mr. Collins or Scott tells you to invoke your  
15      Fifth Amendment right, please go ahead and read  
16      the statement.

17              But back in 2017 and 2018, were you  
18      aware of a standard operating procedure that  
19      governed the vice unit?

20      A.           Yes.

21              MR. COLLINS:   You can answer.

22              THE WITNESS:   Answer with the  
23      paragraph?

24              MR. COLLINS:   No.

1 A. Yeah, I knew there were SOPs.

2 Q. And would you agree with me that back  
3 in 2017 and 2018 in your official capacity, that  
4 you were required to follow those SOPs?

5 MR. COLLINS: That we'll -- he'll  
6 invoke.

7 Q. Go ahead and read your statement,  
8 Mr. Mitchell.

9 A. Upon the advice of counsel, at this  
10 time I'm invoking my Fifth Amendment right against  
11 self-incrimination and will not be answering that  
12 question.

13 MR. COLLINS: And, again,  
14 Mr. Goldstein, not to be a hindrance or  
15 obstructionist, but there are certain situations  
16 and aspects of when the standard procedures can be  
17 put aside depending on certain situations, and  
18 that is an issue in our state case.

19 MR. GOLDSTEIN: And I assume,  
20 Mr. Collins, that if I were to ask those  
21 questions, and, Scott, please chime in since  
22 you're representing Mr. Mitchell in the civil  
23 capacity, if I were to ask those questions, you  
24 would be invoking his Fifth Amendment right?

1 MR. COLLINS: Absolutely.

2 MR. GOLDSTEIN: So we can have an  
3 agreement, again, that I'm not going to touch on  
4 that topic because he would be invoking his Fifth  
5 Amendment right?

6 MR. COLLINS: Correct.

7 MR. WALKER: Agreed.

8 MR. GOLDSTEIN: Thank you.

9 Q. Mr. Mitchell, this may seem like an odd  
10 question, but back in 2017 or 2018, did you have a  
11 particular cologne that you would use?

12 MR. COLLINS: I'm going to advise him  
13 to take the Fifth.

14 A. Upon advice of counsel, at this time I  
15 am invoking my Fifth Amendment right against  
16 self-incrimination and will not be answering that  
17 question.

18 Q. Mr. Mitchell, your civil attorney filed  
19 what we call an initial disclosure which includes  
20 witness lists. I'm just going to touch on that  
21 and see if you have any information about some  
22 of the witnesses that were disclosed. And  
23 obviously if Mr. Collins asks you to invoke your  
24 Fifth Amendment right, you have the right to do

1 so.

2 If called in this case to testify, do  
3 you know what Sergeant Michael Evans would testify  
4 about?

5 MR. COLLINS: I'm going to ask him to  
6 invoke just out of a sheer abundance of caution.

7 A. Upon advice of counsel, at this time  
8 I'm invoking my Fifth Amendment right against  
9 self-incrimination and will not be answering that  
10 question.

11 MR. GOLDSTEIN: And am I correct,  
12 Mr. Collins, or Scott, that if I were to ask him  
13 about any of the witnesses disclosed as to what  
14 the individuals would testify to regarding this  
15 particular case, you would have him invoke his  
16 Fifth Amendment right?

17 MR. COLLINS: If it's related to  
18 the CPD employment and things of that nature,  
19 yes.

20 MR. GOLDSTEIN: And I'll represent to  
21 you I don't know, but it's related to this case,  
22 so obviously these allegations are mixed in with  
23 the superseding indictment.

24 So based upon that, I assume you would

1 be invoking his Fifth Amendment?

2 MR. COLLINS: Yes, sir.

3 MR. WALKER: And I'll agree with Mark,  
4 and I'll also interject an additional objection to  
5 the extent that the answer to that question would  
6 just call for speculation. I don't think he can  
7 testify as to what other people will say. I don't  
8 think he knows.

9 MR. GOLDSTEIN: And that's the whole  
10 thing, if he doesn't know, he doesn't know.  
11 That's what I was just trying to figure out.  
12 Maybe he does. Maybe he doesn't.

13 But as I understand, you would be  
14 invoking his Fifth Amendment right?

15 MR. WALKER: Correct.

16 MR. GOLDSTEIN: Okay. Thank you.

17 I'm just looking through my notes here  
18 because of what we've already agreed to. Why  
19 don't I let Mr. Gibson ask a couple questions that  
20 may invoke your Fifth Amendment right, and then  
21 we'll come back to me, because I think I'm almost  
22 done based upon what we've discussed and what  
23 counsel has advised you, Mr. Mitchell. So thank  
24 you for your time.

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CROSS-EXAMINATION

BY MR. GIBSON:

Q. My name is Joe Gibson. I'm representing the City of Columbus. If I say anything too quickly or you can't hear me through my mask or whatever, feel free to ask me to repeat the question. And feel free to stop me if you can't hear me, that kind of thing.

Mr. Mitchell, what were your duty hours in 2017 and 2018?

A. Mainly 8 a.m. to 4 p.m., but at times we would come in early, 6 a.m. to 2 p.m.

Q. Did you ever work hours that were not documented by either you or CPD?

MR. COLLINS: I'm going to advise him to take the Fifth on that.

A. Upon advice of counsel, at this time I am invoking my Fifth Amendment right against self-incrimination and will not be answering that question.

MR. GIBSON: Can I get Exhibit A?

MR. GOLDSTEIN: Yeah, it's right here.

Q. I'm going to hand you what's been

1 marked as States's Exhibit A. It's the standard  
2 operating procedure that we just discussed  
3 recently.

4 MR. GOLDSTEIN: Actually, it's  
5 Plaintiff's.

6 MR. GIBSON: Oh, sorry. Plaintiff's  
7 Exhibit A.

8 MR. GOLDSTEIN: Joe has his prosecutor  
9 hat on.

10 Q. Plaintiff's Exhibit A, have you ever  
11 seen that before?

12 A. Yes.

13 Q. Did the City issue that to you at some  
14 time?

15 A. Yes.

16 Q. I'd like to turn your attention to  
17 page 4. Are you familiar with the section 2.4  
18 through 2.5?

19 MR. COLLINS: Again, I'm going to  
20 advise him to take the Fifth Amendment on that.

21 MR. GIBSON: Just to clarify, before  
22 you assert your Fifth Amendment right, what I'm  
23 asking is: Have you seen it before? Are you  
24 aware that it exists? Not whether you deviated



1 from it, that kind of thing.

2 MR. COLLINS: I understand. You had  
3 asked him if he had gotten a copy of this and he  
4 acknowledged that he had, and those were the rules  
5 in place. Any specific subsections and things of  
6 that nature potentially can lead to an answer that  
7 would incriminate himself in regards to that.

8 MR. GIBSON: Okay.

9 MR. COLLINS: You need to answer that.

10 A. Upon advice of counsel, at this time I  
11 am invoking my Fifth Amendment right against  
12 self-incrimination and will not be answering that  
13 question.

14 Q. Did you have occasion to -- as a vice  
15 officer, were you issued a duty car?

16 A. Yes.

17 Q. Okay. What was the make, model, and  
18 year of the duty car?

19 A. I believe it was a 2008 dark blue  
20 Fusion, Ford Fusion.

21 Q. And was that used in covert operations?

22 A. Yes.

23 Q. Did you use any other duty cars during  
24 the 2017 through 2018 period?

1 A. Yes.

2 Q. Can you describe those?

3 MR. WALKER: Can you just clarify. Use  
4 any other car, what do you mean by that?

5 MR. GIBSON: I'm sorry.

6 MR. WALKER: During duty or...

7 Q. Did you use any other duty cars during  
8 the 2017 and 2018 period?

9 A. Yes.

10 Q. Can you describe them?

11 A. Well, when I first came out in March  
12 2017, I had a black, two-door Focus, and then a  
13 couple months later, I did get the blue Fusion,  
14 probably like July.

15 Q. July of '17?

16 A. Yes. And then in about May of 2018, I  
17 got the black vehicle. I'm trying to think of the  
18 name of it. At this time, I can't recall the  
19 name. It was the one involved in the shooting.

20 Q. Any other car after the shooting?

21 A. No.

22 Q. In addition to those cars that you've  
23 described as your personal vehicles, I'm talking  
24 about the Cadillac, the GMC, and the Harley, in

1 addition to those personal vehicles, did you ever  
2 drive any other personal vehicles, for example,  
3 your wife's car or anyone else's?

4 A. Yeah, I drove my wife's car before.

5 Q. Can you please describe that vehicle?

6 A. She has a 2015 Lincoln Navigator.

7 Q. Do you remember what color?

8 A. Black.

9 Q. Are you aware of any policies regarding  
10 -- from the SOP, are you aware of any policy  
11 regarding using personal cars while on duty?

12 MR. COLLINS: I'll advise him to take  
13 the Fifth on that.

14 A. On the advice of counsel, at this time  
15 I'm invoking my Fifth Amendment right against  
16 self-incrimination and will not be answering that  
17 question.

18 Q. I'm going to ask here three questions.  
19 I guess I'll just ask -- I anticipate that he'll  
20 answer -- I would rather have one blanket Fifth  
21 Amendment assertion for all three questions.

22 MR. COLLINS: Go ahead and ask them.

23 Q. Did you always carry a covert ID? Did  
24 you always carry a City cell phone? And did you

1 always carry a radio while on duty?

2 MR. COLLINS: You had to throw that  
3 "always" in there didn't you, Joe? I'm just  
4 messing with you.

5 I'm going to advise him to take the  
6 Fifth.

7 A. Upon advice of counsel, at this time  
8 I'm invoking my Fifth Amendment right against  
9 self-incrimination and will not be answering that  
10 question.

11 Q. I'd like to turn your attention again  
12 to Plaintiff's Exhibit A, page 14. I suppose,  
13 since we've already gone over this, you're at  
14 least aware that the policy exists. But I'm --  
15 have you ever seen policy 3.4 at the bottom of  
16 page 14?

17 MR. COLLINS: Again, I'll advise him to  
18 take the Fifth on that.

19 A. Upon advice of counsel, at this time I  
20 am invoking my Fifth Amendment right against  
21 self-incrimination and will not be answering that  
22 question.

23 MR. GIBSON: I guess I'll ask  
24 Mr. Collins: Does this still fall under the

1 blanket of he's acknowledging that he received the  
2 SOP, but he's not going to discuss --

3 MR. COLLINS: The specifics.

4 MR. GIBSON: -- knowledge about  
5 certain --

6 MR. COLLINS: Absolutely.

7 Q. Are you aware of any City policy or  
8 directive that allows for the abduction or  
9 kidnapping of a suspect or any other person?

10 MR. COLLINS: I'm going to advise him  
11 to take his Fifth Amendment.

12 A. Upon advice of counsel, at this time I  
13 am invoking my Fifth Amendment right against  
14 self-incrimination and will not be answering that  
15 question.

16 Q. Are you aware of any CPD policy that  
17 allows or directs an officer to rape a suspect or  
18 anyone else?

19 MR. COLLINS: Same request.

20 A. Upon advice of counsel, at this time I  
21 am invoking my Fifth Amendment right against  
22 self-incrimination and will not be answering that  
23 question.

24 Q. Are you aware of any CPD policy

1 allowing for or directing an officer to engage in  
2 consensual sex while on duty?

3 MR. COLLINS: (Indicates).

4 A. Upon advice of counsel, at this time I  
5 am invoking my Fifth Amendment right against  
6 self-incrimination and will not be answering that  
7 question.

8 Q. I suppose it to be the same answer, but  
9 I would direct your attention again to the SOP,  
10 specifically section 8, which would be on page --  
11 beginning on page 56.

12 Were you in receipt of or were you  
13 aware of section 8.1, which includes the  
14 definition of sexual conduct, sexual contact, and  
15 sexual activity?

16 MR. COLLINS: Same advice.

17 A. Upon advice of counsel, at this time I  
18 am invoking my Fifth Amendment right against  
19 self-incrimination and will not be answering that  
20 question.

21 Q. I'm assuming the same answer. Within  
22 section 8, I would direct your attention to page  
23 -- I wrote the page numbers down on everything  
24 else but this one.

1                   Page 57, 8.1.4, reporting sexual  
2                   activity. Were you aware of that section?

3                   MR. COLLINS: Same request.

4                   A.           Upon advice of counsel, at this time I  
5                   am invoking my Fifth Amendment right against  
6                   self-incrimination and will not be answering that  
7                   question.

8                   Q.           While on duty, did you always -- while  
9                   engaging in covert operations regarding  
10                  prostitution or anything else, did you always have  
11                  at least one other vice detective with you while  
12                  conducting those investigations?

13                  MR. COLLINS: Same advice.

14                  A.           Upon advice of counsel, at this time I  
15                  am invoking my Fifth Amendment right against  
16                  self-incrimination and --

17                  Q.           And I'm assuming --

18                  A.           -- will not be answering --

19                  Q.           I'm sorry.

20                  A.           -- any questions at this time.

21                  Q.           I apologize for talking over you there.  
22                               Are you aware of, or were you in  
23                  receipt of, a policy requiring that second  
24                  officer?

1 MR. COLLINS: (Indicating).

2 A. Upon advice of counsel, at this time I  
3 am invoking my Fifth Amendment right against  
4 self-incrimination and will not be answering that  
5 question.

6 MR. GIBSON: I don't have anything  
7 else.

8 MR. GOLDSTEIN: I just have a couple  
9 additional questions, Mr. Mitchell.

10 - - - - -

11 FURTHER CROSS-EXAMINATION

12 BY MR. GOLDSTEIN:

13 Q. You advised us about some of the  
14 properties that you owned and we went through  
15 those.

16 As we sit here today, can you agree  
17 with me that you will not try and sell or dispose  
18 of those properties while at least the civil case  
19 is pending?

20 MR. COLLINS: Can we go off the record?

21 MR. GOLDSTEIN: Sure.

22 (A discussion is held off the record.)

23 BY MR. GOLDSTEIN:

24 Q. Mr. Mitchell, I had an opportunity to



1 speak with your civil counsel and your criminal  
2 counsel, and it's my understanding that the  
3 agreement is that if you need or decide to dispose  
4 of any of the properties that you mentioned today,  
5 before you will do any of that, you will speak  
6 with your attorneys who will then contact me so  
7 that we can discuss whether it would be proper or  
8 not, and what to do with any of those funds.

9 Is that a fair statement?

10 MR. WALKER: That's a fair statement.

11 Q. Do you acknowledge that, Mr. Mitchell?

12 A. Yes.

13 MR. WALKER: And you agree to that?

14 THE WITNESS: Yes.

15 MR. GOLDSTEIN: Can we go off the  
16 record.

17 (A discussion is held off the record.)

18 BY MR. GOLDSTEIN:

19 Q. Mr. Mitchell, we just had a discussion.  
20 As you know, we filed this civil lawsuit and named  
21 Jane Doe, and I believe that the identity of our  
22 client has been disclosed to you. Her name is  
23 Amber James.

24 Do you know -- did you know Amber James

1 at any time prior to the criminal indictment in  
2 federal court being filed against you?

3 MR. COLLINS: I'll advise him to  
4 invoke.

5 A. Upon advice of counsel, at this time I  
6 am invoking my Fifth Amendment right against  
7 self-incrimination and will not be answering that  
8 question.

9 Q. And, Mr. Mitchell, did you ever have  
10 any sexual conduct, contact, with Ms. James at any  
11 time?

12 MR. COLLINS: I would advise him the  
13 same.

14 A. Upon advice of counsel, at this time I  
15 am invoking my Fifth Amendment right against  
16 self-incrimination and will not be answering that  
17 question.

18 MR. GOLDSTEIN: I don't have any  
19 additional questions. Thank you, Mr. Mitchell.

20 MR. GIBSON: We don't have anything  
21 either.

22 MR. WALKER: Nothing from us.  
23 Thank you.

24 MR. GOLDSTEIN: Waive or read?

1 MR. WALKER: We'll read.

2 (Signature not waived.)

3 - - - - -

4 Thereupon, the foregoing proceedings  
5 concluded at 10:07 a.m.

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1 State of Ohio : C E R T I F I C A T E  
2 County of Franklin: SS

3 I, Lisa Wilson, a Notary Public in and for the  
4 State of Ohio, certify that Andrew K. Mitchell was  
5 by me duly sworn to testify to the whole truth in  
6 the cause aforesaid; testimony then given was  
7 reduced to stenotype in the presence of said  
8 witness, afterwards transcribed by me; the  
9 foregoing is a true record of the testimony so  
10 given; and this deposition was taken at the time  
11 and place specified on the title page.

12 Pursuant to Rule 30(e) of the Federal Rules of  
13 Civil Procedure, the witness and/or the parties  
14 have not waived review of the deposition  
15 transcript.

16 I certify I am not a relative, employee,  
17 attorney or counsel of any of the parties hereto,  
18 and further I am not a relative or employee of any  
19 attorney or counsel employed by the parties hereto,  
20 or financially interested in the action.

21 IN WITNESS WHEREOF, I have hereunto set my hand  
22 and affixed my seal of office at Columbus, Ohio, on  
23 February 10, 2022.

24 

25 \_\_\_\_\_  
26 Lisa Wilson, Notary Public - State of Ohio  
27 My commission expires September 16, 2025.

Witness Errata and Signature Sheet  
 Correction or Change Reason Code  
 1-Misspelling 2-Word Omitted 3-Wrong Word  
 4-Clarification Fifth-Other (Please explain)

Page/Line	Correction or Change	Reason Code
_____	_____	_____
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I, Andrew K. Mitchell, have read the entire transcript of my deposition taken in this matter, or the same has been read to me. I request that the changes noted on my errata sheet(s) be entered into the record for the reasons indicated.

Date\_\_\_\_\_Signature\_\_\_\_\_

The witness has failed to sign the deposition within the time allowed.

Date\_\_\_\_\_Signature\_\_\_\_\_

Ref: LW304073AM S-LW P-KC

<b>Exhibits</b>	<b>3</b>	40:9 42:19	27:10,24 28:5,15,24 29:8,16 30:1,14,20 31:19 32:20, 22 33:11 35:15,21 36:8,20 37:11,13,21 38:5,18 39:5,15 40:3 42:6,15	<b>aware</b> 26:18 32:24 35:9, 10 36:14 37:7,16,24 38:13 39:2, 22
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